



[6705-01-P]

FARM CREDIT ADMINISTRATION

12 CFR Part 607

RIN 3052-AD30

Assessment and Apportionment of Administrative Expenses

AGENCY: Farm Credit Administration.

ACTION: Direct final rule.

SUMMARY: The Farm Credit Administration (FCA or we) issues this direct final rule adopting technical amendments to eliminate language that is obsolete, confusing, and unnecessary to determine the annual assessment amount of Farm Credit System institutions.

DATES: If no significant adverse comment is received on or before [INSERT DATE THAT IS 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], this regulation shall become effective no earlier than the expiration of 30 days after publication in the Federal Register during which either or both Houses of Congress are in session. We will publish notice of the effective date in the Federal Register.

ADDRESSES: For accuracy and efficiency reasons, please submit comments by e-mail or through the FCA's Web site. We do not accept comments submitted by facsimile (fax), as faxes are difficult for us to process in compliance with

section 508 of the Rehabilitation Act. Please do not submit your comment multiple times via different methods.

You may submit comments by any of the following methods:

- E-mail: Send us an e-mail at reg-comm@fca.gov.
- FCA Web site: <http://www.fca.gov>. Select "Public Commenters," then "Public Comments," and follow the directions for "Submitting a Comment."
- Federal eRulemaking Portal:
<http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Barry F. Mardock, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

You may review copies of all comments we receive at our office in McLean, Virginia, or from our Web site at <http://www.fca.gov>. Once you are in the Web site, select "Public Commenters," then "Public Comments," and follow the directions for "Reading Submitted Public Comments." We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information you provide, such as phone numbers and addresses, will be publicly available.

However, we will attempt to remove e-mail addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this direct final rule is to eliminate confusion in the definition of "average risk-adjusted asset base" in § 607.2(b), which is used to determine the annual assessment amount of System institutions, by:

- Removing an obsolete and unnecessary reference to FCA's call report schedule; and
- Clarifying the effect of mergers and consolidations based on current accounting practices and deleting obsolete language relating to transfers of direct lending authority.

II. Discussion

Effective January 1, 2017, the FCA published the Tier 1/Tier 2 Framework; Final Rule (new capital rule).¹ The new capital rule, in pertinent part, revised the risk-weights that determine the risk-adjusted asset base (the denominator) of the permanent capital ratio that Farm Credit System (System) institutions must compute. The average risk-adjusted asset base of a System bank, association, or designated other System entity is used to determine its annual assessment of funds to cover FCA's expenses.² Existing § 607.2(b) defines and specifies how to calculate "average risk-adjusted asset base" in four different ways, depending on when the institution was formed and how many quarters of risk-adjusted assets are available. All these variations, however, define "average risk-adjusted asset base" using the regulatory definition of "risk-adjusted asset base" and with reference to risk-adjusted assets as reported on each quarterly Call Report Schedule RC-G.

The FCA significantly revised and relabeled its call report schedules in connection with the new capital rule. An institution's permanent capital ratio denominator - its

¹ 81 FR 48720, July 28, 2016.

² See 12 CFR part 607.

average risk-adjusted asset base - is no longer reported in Call Report Schedule RC-G. Accordingly, FCA is revising the definition of "average risk-adjusted asset base" in § 607.2(b) to remove the references to Call Report Schedule RC-G. Because call report schedules are subject to change outside of the regulatory process, the revised definition does not refer to a call report schedule. Rather, revised § 607.2(b) defines "average risk-adjusted asset base" with reference to the average daily risk-adjusted assets as of the last day of the quarter and without reference to the call report schedule. Because average daily risk-adjusted assets can be determined under FCA's regulations, the reference to the call report schedule is unnecessary.³ In the current version of the call report as of the date of this technical amendment, the denominator of the permanent capital ratio (average daily risk-adjusted assets) is reported at Line 8a of Schedule RC-R.1, but this location is subject to change.⁴

³ In the rare circumstance that an institution was unable to submit a call report, it could, for assessment purposes, calculate and provide the same data outside of the call report.

⁴ By Informational Memorandum dated June 16, 2017, the FCA informed System banks and associations about the changes to the assessment calculation in the capital rules and about the changes to the call report schedules relevant to assessments.

In addition, we revise § 607.2(b)(3) and (b)(4) to clarify, based on current accounting practices, that mergers result in continuing institutions and consolidations result in newly formed institutions.⁵ We also revise these two paragraphs to remove obsolete provisions governing transfers of direct lending authority, since we do not expect any future transfers of direct lending authority.⁶ Finally, we make minor grammatical changes throughout § 607.2(b).

These changes are technical in nature and have no substantive effect. This rule will have no impact on the formula used to calculate an institution's assessment amount. Moreover, this rule does not change the definition of "average risk-adjusted asset base" other than to remove obsolete and unnecessary references, clarify the effect of mergers and consolidations, and correct minor grammatical errors.

III. Direct Final Rule

⁵ Section 621.3(a) requires System institutions to prepare financial statements and reports in accordance with generally accepted accounting principles (GAAP).

⁶ Section 7.6 of the Farm Credit Act of 1971, as amended, 12 U.S.C. 2279b, authorized Federal land banks and merged banks to transfer their direct lending authority to System associations, and all associations now have direct lending authority.

We are amending the definition of "average risk-adjusted asset base" in § 607.2(b) by a direct final rulemaking. The Administrative Conference of the United States recommends direct final rulemaking for Federal agencies to enact noncontroversial regulations on an expedited basis, without the usual notice and comment period.⁷ This process enables us to reduce the time and resources we need to develop, review, and publish a final rule while still affording the public an adequate opportunity to comment or object to the rule.

In a direct final rulemaking, we notify the public that the rule will become final on a specified date unless we receive a significant adverse comment during the comment period. A significant adverse comment is one where the commenter explains why the rule would be inappropriate (including challenges to its underlying premise or approach), ineffective, or unacceptable without a change. In general, a significant adverse comment would raise an issue serious enough to warrant a substantive response from the FCA in a notice-and-comment proceeding.

⁷ Recommendation 95-4, referencing the Administrative Procedure Act "good cause" exemption at 5 U.S.C. 553(b) (B), adopted June 15, 1995.

We believe that a direct final rulemaking is the appropriate method for amending § 607.2(b) because the changes are technical in nature and do not substantively alter the rights or responsibilities of any party. We do not anticipate there will be significant adverse comments. If, however, we receive a significant adverse comment during the comment period, we will publish a notice of withdrawal of the relevant provisions of this rule that will also indicate how further rulemaking will proceed. If we receive no significant adverse comments, we will publish notice of the effective date of the rule following the required congressional waiting period under section 5.17(c)(1) of the Farm Credit Act of 1971, as amended.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the FCA hereby certifies that the direct final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities.

Therefore, Farm Credit System institutions are not "small entities" as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 607

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, part 607 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

PART 607—ASSESSMENT AND APPORTIONMENT OF ADMINISTRATIVE EXPENSES

1. The authority citation for part 607 continues to read as follows:

Authority: Secs. 5.15, 5.17 of the Farm Credit Act (12 U.S.C. 2250, 2252) and 12 U.S.C. 3025.

2. Section 607.2 is amended by revising paragraph (b) to read as follows:

§ 607.2 Definitions.

* * * * *

(b) Average risk-adjusted asset base means the average of the risk-adjusted asset base (as defined in § 615.5201 of this chapter) of banks, associations, and designated other System entities, calculated as follows:

(1) For a bank, association, or designated other System entity with four quarters of risk-adjusted assets as of June 30 of each year, the sum of the average daily risk-adjusted assets as of the last day of the quarter for the most recent four quarters immediately preceding each September 15, divided by four;

(2) Except as provided in paragraphs (b)(3) and (b)(4) of this section, for a bank, association, or designated other System entity with less than four quarters of risk-adjusted assets as of June 30 of each year, the sum of the average daily risk-adjusted assets as of the last day of the quarter for the quarters in which it was in existence immediately preceding September 15, divided by the number of quarters in which it was in existence immediately preceding September 15;

(3) For a bank, association, or designated other System entity that is the continuing institution after a merger of existing institutions or a newly formed institution formed through a consolidation of existing institutions and that has less than four quarters of risk-adjusted assets as of June 30 of each year, the sum of the average daily risk-adjusted assets as of the last day of the quarter for the most recent four quarters immediately

preceding September 15 for all the institutions that were merged or consolidated, divided by four;

(4) For a bank, association, or designated other System entity chartered during the period July 1 through September 30 of each year that is not the continuing institution after a merger of existing institutions or a newly formed institution formed through a consolidation of existing institutions, the total of the average daily risk-adjusted assets as of the last day of the quarter ending September 30.

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Date: October 16, 2017 Dale L. Aultman
 Secretary,
 Farm Credit Administration Board.

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